

Legal Protection of the Child Victims of Criminal Acts of Persecution

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Abstract: The purpose of this research is to know the shape of the legal protection of children as victims of the crime of persecution, and analyzes the factors that affect the protection of the rights of victims of criminal acts of persecution in the city Makassar. As for the type of research that used the author i.e. the juridical normative and legal research empirical. Normative juridical or other name is doctrinal legal research, also referred to as the research library or study document. Called doctrinal legal research because this research was conducted or directed only on the written rules or legal materials to another. While referred to as a research library or study document caused this much more research done using normative provisions of law as its main data is then supported by other secondary data.

Keyword: *Legal Protection, The Child Victims, Criminal Acts*

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I. INTRODUCTION

The child is a gift of the Almighty God who must get protection, guidance and coaching on a consistent basis, because in him the dignity and inherent dignity as a whole person, so that he has rights similar to the rights owned by other individuals. Child psychology and biologically different from adults. They are vulnerable to all conditions and situations that may affect the development of his soul. In General, children are still unstable, so that phase is always described as a very important phase in the process of physical growth and his soul. That is because the children belong to the Group of individuals who still have the reliance that closely with others, possess a naive have special needs, as well as still in need of protection and care that is Special anyway. Forms of protection can be any form of activities to guarantee and protect children and their rights in order to live, grow, thrive and participate optimally in accordance with the dignity and the dignity of humanity, as well as get protection from all forms of violence as persecution¹.

Abuse (child abuse) that occur throughout the year, related to violence in children either physical or psychic happening in Indonesia, especially in Makassar city very memperhatikan. In any case, the majority of victims are children aged under 8 years. It is certainly a serious problem to be noticed by the Government of Indonesia. See the conditions the city of Makassar to make policies in order to protect the rights of the child and protecting children from various forms of violence. I.e. with the socialization of child protection, held by the city of Makassar.

Child protection efforts need to be implemented as early as possible, i.e. from the fetus in the womb until the son was 18 years old. Violence against children is very influential on the development of a nation where the child is regeneration both in the field of social, cultural and political. All parties agree on the role of the son (the rule of the child) that children are the hope of the future. However, it is often not realised that children also have an existence. The existence of the child as a child, as a man who was part of the totality of life and humanity. Isn't on any child (since his birth, even since becoming a fetus in the mother's womb) attached to fundamental rights that cannot be cancelled. Reality in the world, there are still many forms of exploitation, violence, discrimination and the pencideraan rights of the child, both perceived and real and hidden. Child protection laws are very essential in determining the future formation of family, community, the nation and the State. When a country's child protection law drafted, ratified and enacted in good substance through concrete, structural, and cultural barriers are set consistently and sustainably, then the position of the

¹ Arif Gosita. 1989. *Masalah Perlindungan Anak* (Child Protection Issues.) Akademi Pressindo. Jakarta, p.15.

child in the family, community or nation will become a pillar and a very strong foundation of a nation in realizing the national goal. Conversely when the child protection law, substances and structural compiled and authenticated are abstract and obscure as well as the application of the law that is inconsistent with the legal culture which is reflected in the legislation, then the position of the child still remain vulnerable in the guarantee of legal protection, the pillar and Foundation of the family, society and the State is prone to sangan and fragile in its full upright and a country to realize the national goal.

Formulation of The Problem

How does the shape of the legal protection of Children As victims of the crime of persecution?

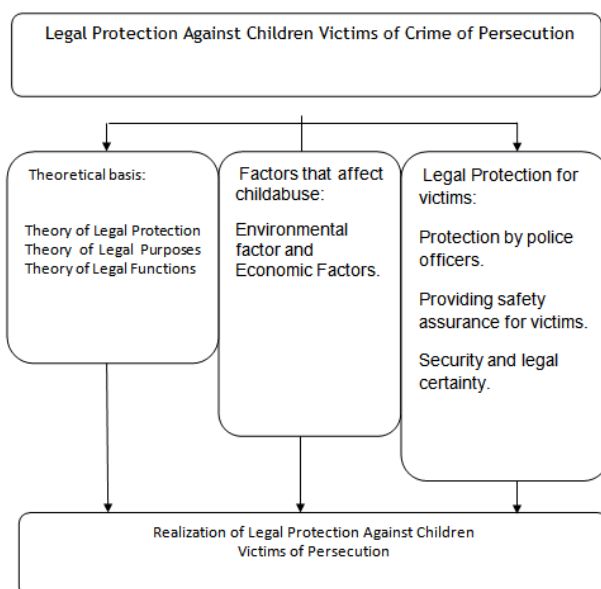
II. THEORETICAL FRAMEWORK

Associated with the theory of legal protection, there are some experts who explain this matter, among others, namely Fitzgerald, Satjipto Raharjo, Phillipus M Hanjon and Lily Rasyidi. Fitzgerald cites the term theory of legal protection from Salmond that the law aims to integrate various interests in coordinating dam people because in a traffic interests, protection of particular interests can be done by limiting the variety of interests on the other. The legal interest is maintaining the rights and interests of human beings, so the law has the Supreme authority to determine human interests that need to be regulated and protected. Legal protection must be viewed stages namely legal protection was born from a provision of the law and the rule of law given by a society that basically is the community's agreement to regulate the relationship between the behavior members of the society and between the individuals with the Government deemed to represent the interests of the community.

Satjipto Rahardjo, according to legal protection is to provide shelter against the human rights violations (human rights) that harmed others, and protection is given to the community to be able to enjoy all the rights provided by law. Furthermore according to Phillipus m. Hadjon that the protection of the law for the people as the Government preventive action and resprensif. Preventive legal protection aims to prevent the occurrence of the dispute, which directs government action being cautious in decisions berdasarkandiskresi and resprensif protection that aims to prevent the occurrence of the dispute, including the handling in the judiciary. While according to Lili Rasjidi and i. B Wysa Son that the law can be enabled to realize the protection which is not only flexible and adaptive, melaikan also predekatif and antipatif.

The law serves as a means to order and organized society. Law as a guide to behave to that society should be aware of the do's and Don'ts in the law so that the function of the law as a tool of the community can order direalisir. Law as a means to realize social justice was born. law binding, force and imposed by State authorities tools make people afraid to commit violations because there is a threat of hukumanya (prison, etc) and can be applied to anyone. Thus justice is achieved. The law serves as a driving force of development tools because it has a binding power and force can be utilized as an instrument of authority to direct the society towards progress.

Furthermore the theory of control or control theory refers to any perspective that brings about the control of human behavior. Meanwhile, the sense of the theory of social control refers to the discussion of delinquency and crime-related variables which are sociology, among others, family structure, education, and the dominant group.



III. DISCUSSION

Child protection has actually integrated in national law contained in the book of the law of civil law, the book of the law of criminal law, and a number of laws on the protection of law. This proves that how important child in the dynamics of development in particular in furthering the life of nation and State. Positive law in Indonesia currently tend to be meant as a form of law that meant nothing and only a mere rule as it is well known that Indonesia is a State of law. This means that even though the Government pass a law but forms of realization of law in society was not as expected as there are poor so most communities assess the indecision as a debilitation in the law enforcement in Indonesia.² This is a cause often happen different forms of persecution crimes against children in the community. Until now its son has not attracted many parties to resolve. The report presented the agencies world (UNICES) show that children still victimized adults. The United nations children's Fund (UNICEF) child protection reveals in Indonesia is still relatively weak. It is seen in the Government's policy to question children who is not curative. "The Fund preventive to curative there is more like family strengthening, not built," said Ali Aulia Ramly, Child Protection Coordinator for UNICEF in exposure at the seminar themed "research and Innovative practices in the field of welfare and protection children in Indonesia.

While the residency Director, women's empowerment and child protection national development planning agency stating the prevalence kekerasan children based on susenas data for the year 2006 is quite high, i.e., 7.6 percent. Of that number means there are 4 million children experience violence every year. Kemudian based on the report of the year 2011 Komnas PA noted the occurrence of 2,386 cases. This means that each month the child protection agency received a report of 200 cases. The figure increased by 98 percent from a year ago with a total of 1,234 complaint.

Child rights are human rights that need special attention in providing protection, so that newborns, grown and developed get full human rights. Human rights encompasses all that is needed for the full development of human beings and the positive law supports the social order required for the full development.

The existence of human rights is absolute and can not be left to give a last stronghold against human rights violations. Growth and development of children to become fully human is very dependent on the moral system that includes normative values according to society. Beliefs to what should be done. From the fundamental normative belief that the child must grow and develop compose all the necessities associated with the physical-physical needs of the child should have the food and shelter and the actual human needs of the child should join and freely express themselves own.

Different forms of exploitation of child labor both in the formal sector and information have hindered children from obtaining rights to education, health care and increasing childhood to play. Even in Indonesia still found children work with a risk of work that is very dangerous and like slavery.

The Centers for Disease Control and Prevention (CDC) define child abuse as any act or set of guardian or negligent acts by parents or other carers generated may be harmful, or potentially harmful, or pose a dangerous threat to the child. Most child abuse occurs in the child's own home, with a smaller number occurring in schools, in the neighborhood or organization where the child interacts. There are four main categories of acts of violence against children: abandonment, physical abuse, emotional / psychological abuse and child sexual abuse.

Internationally, the rights of children in the Convention On The Right Of The Child of 1989, consisting of 45 Articles of Rights are as follows:

1. The right to live with their parents unless they are deemed incompatible with their best interests, the right to maintain a relationship with both parents when separated one or both, the task of the state in cases where the separation is the result of state action.
2. The right of the child to obtain care and care of the parent, the state shall support the fulfillment of this right.
3. The right of the child to receive education and state obligations to ensure that at least basic education is provided free of charge and obligations. The implementation of school discipline will reflect the child's human dignity.
4. The right of the child to be protected from the use of drugs and prikotropika and of involvement in production and distribution.

After the enactment of Law no. 34 Year 2014 on Child Protection, child protection in Indonesia already has a stronger legal basis. Under the Law on Child Protection, children's rights are relatively more and quite complete. The rights of the child include:

- a) Every child shall have the right to live, grow, develop, and participate naturally in accordance with human dignity and dignity, and obtain protection from violence and discrimination (Art. 4).
- b) Every child has the right to a name as an identity and citizenship (Art. 5).

² Barda Nawawi Arief, 1992. *Bungan Rampai Hukum Pidana*. Citra Aditya. Bandung, p.35

- c) Every child has the right to honor according to his religion, thinking, and expression according to his level of intelligence, and age, in parental guidance (Article 6).
- d) Every child shall have the right to know his / her parents, to be raised, and to be cared for by his / her own parents (Article 7).
- e) Every child has the right to health and social security services in accordance with physical, mental, spiritual and social needs (Article 8).
- f) Every child shall have the right to receive education and instruction in the framework of his personal development and his level of intelligence in accordance with his interests and talents (Article 9).
- g) Every child shall have the right to express and hear his opinion, to receive, to seek and to provide information according to his or her level of intelligence and age for the development of himself in accordance with the values of propriety and propriety (Article 10).
- h) Every child in the care of a parent, guardian or any other party responsible for care shall be entitled to protection from treatment: Discrimination, Exploitation, economic or sexual, Abandonment, Cruelty, Violence and Ill-Treatment, Injustice, Other Misdemeanors 13 verse 1).

In addition to regulating the rights of the child, the child's obligation is also obliged that every child is obliged to respect the parents, guardian, and teacher, love the family, the community and love the friends, love the homeland, nation and state, perform the worship according to the teachings of his religion and carry out ethics and ahlak that begin (Article 19 of the Child Protection Act).

Implementation of Rights and Obligations is certainly based on Pancasila and the 1945 Constitution of the Republic of Indonesia as well as the basic principles of children which include: Non-discrimination, Best interests for children, Right to life, survival and development; and Appreciation of children's opinions.

The protection of children aims to ensure the fulfillment of the rights of children in order to live, grow, develop, and participate optimally in accordance with the dignity and human dignity. Child protection also aims to protect children from violence and discrimination, for the realization of quality Indonesian children, noble and prosperous³.

Fitzgerald cites the term theory of legal protection from Salmond that the law aims to integrate various interests in coordinating dam people because in a traffic interests, protection of particular interests can be done by limiting the variety of interests on the other. The legal interest is maintaining the rights and interests of human beings, so the law has the Supreme authority to determine human interests that need to be regulated and protected. Legal protection must be viewed stages namely legal protection was born from a provision of the law and the rule of law given by a society that basically is the community's agreement to regulate the relationship between the behavior members of the society and between the individuals with the Government deemed to represent the interests of the community.⁴

Indonesia has not been very consistent in being able to resolve the cases of violence against children. Although the device has available relative law. Therefore, the sosialiasasi, the promotion and enforcement of legal protection of children needs to be done, given the still large number of evil persecution of children who still often occurs in an environment of Indonesia society. And enforcement of children's rights required the commitment of adults who have the power, capital, the power of urgent and other supporting resources. The child, because his nature is weak in its infancy, however can not be left reliant in total. Children are not mini-adults in size so it does not bisah be left struggling on its own to protect itself from a wide range of actions that cause harm mentally, physically, socially from many areas of life and livelihood. Hence the urgency of advocacy and legal set of children is indispensable for creating a better world order for children in Indonesia.

IV. CONCLUSION

1. Child protection is "all activities to ensure and protect children and their rights in order to live, grow and develop and participate optimally in accordance with the dignity and the dignity of humanity, as well as the protection of the various form of violence.
2. This very important legal protection against child violence where the purpose of the protection itself can manifest prosperity against children by providing security against the fulfillment of their rights without any discrimination of treatment.

³ Irma Setyowati Soemitro, 1990. *Aspek Hukum Perlindungan Anak*. Bumi Aksara. Jakarta, p.15

⁴ Bismar Siregar et all, , 1986. *Hukum dan Hak-hak Anak*. Jakarta, p.5

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